

## SECTION 13 RECOMMENDATIONS

I am recommending a Comprehensive Plan that will restore, protect, and preserve a natural resource treasure – the south Florida ecosystem. Including the Everglades, this ecosystem is unique and nationally important. I believe that failing to act now will result in the irretrievable loss of an ecosystem, which exist no where else in the world. I am convinced that the Comprehensive Plan will allow us to reverse the course of the past fifty years and leave an Everglades legacy that future generations will be able to enjoy and benefit from.

I find that the south Florida ecosystem, which extends from the Kissimmee River - Lake Okeechobee region through the Everglades and Florida Keys and includes significant estuarine and near-shore communities, provides habitat for diverse species of fish and wildlife while providing important water supply, water quality, flood control, and recreation functions. The south Florida ecosystem, which has been reduced by almost 50 percent, is endangered as a result of adverse changes in the quantity and distribution of water, the timing of flows, and the degradation of water quality. Restoration of this ecosystem is vital to achieve environmental and economic sustainability in the region and to prevent an ecological disaster of unprecedented proportions. Modifications to the Central and Southern Florida Project are required to provide for the restoration, preservation, and protection of the Everglades and the south Florida ecosystem. Such modifications can be undertaken in a manner that allows us to continue to provide and enhance benefits necessary for the economic and social sustainability of the region.

Therefore, I recommend that the Comprehensive Plan, as described in the section of this report entitled "The Recommended Comprehensive Plan," be approved as a framework and guide for modifications to the Central and Southern Florida Project. I further recommend that the pilot projects and the components for initial authorization, including monitoring, as described in the section of this report entitled "Implementation Plan," be authorized for construction at 50 percent Federal cost sharing at a total estimated cost of \$1,198,000,000 and an annual cost of \$20,000,000 for operation and maintenance. The estimated Federal first cost is \$599,000,000 with estimated annual operation and maintenance costs of \$10,000,000; and the estimated non-Federal first cost is \$599,000,000 with estimated annual operation and maintenance costs of \$10,000,000. The Water Resources Development Act of 1996 provided authorization for Critical Restoration Projects in order to expedite implementation of the restoration effort. I also

recommend approval of a similar programmatic authority to help expedite implementation of some components in the Comprehensive Plan and that the programmatic authority be limited to those components of the Comprehensive Plan that have a total project cost of \$70,000,000 with a maximum Federal cost of \$35,000,000. Authorization for the remaining components of the Comprehensive Plan will be sought after completion of more detailed planning and submission of Project Implementation Reports to Congress. Each Project Implementation Report will also contain an analysis of the Comprehensive Plan and any recommendations concerning modifications to the plan.

The above recommendations are made with the provision that prior to implementation of each project, the non-Federal sponsor shall enter into a binding agreement with the Secretary of the Army to perform the following items of local cooperation:

- a. Provide 50 percent of the total project costs as further specified below:
  - (1) Enter into an agreement which provides, prior to construction, 25 percent of pre-construction engineering and design (PED) costs;
  - (2) Provide, during construction, any additional funds needed to cover the non-Federal share of pre-construction engineering and design costs;
  - (3) Provide all lands, easements, and rights-of-way, including suitable borrow and dredged or excavated material disposal areas, and perform or assure the performance of all relocations determined by the Government to be necessary for the construction, operation, and maintenance of the project;
  - (4) Provide or pay to the Government the cost of providing all retaining dikes, wasteweirs, bulkheads, and embankments, including all monitoring features and stilling basins, that may be required at any dredged or excavated material disposal areas required for the construction, operation, and maintenance of the project; and
  - (5) Provide, during construction, any additional costs as necessary to make its total contribution equal to 50 percent of total project costs.
- b. Grant the Government a right to enter, at reasonable times and in a reasonable manner, upon land which the local sponsor owns or controls for access to the project for the purpose of inspection, and, if necessary, for the purpose of completing, operating, maintaining, repairing, replacing, or rehabilitating the project.
- c. For so long as the project remains authorized assume responsibility for operating, maintaining, replacing, repairing, and rehabilitating (OMRR&R) the

project or completed functional portions of the project, including mitigation features, with 50 percent of the funding provided by the Federal government, in a manner compatible with the project's authorized purposes and in accordance with applicable Federal and State laws and specific directions prescribed by the Government in the OMRR&R manual and any subsequent amendments thereto.

d. Comply with Section 221 of Public Law 91-611, Flood Control Act of 1970, as amended, and Section 103 of the Water Resources Development Act of 1986, Public Law 99-662, as amended, which provides that the Secretary of the Army shall not commence the construction of any water resources project or separable element thereof, until the non-Federal sponsor has entered into a written agreement to furnish its required cooperation for the project or separable element.

e. Hold and save the Government free from all damages arising for the construction, operation, maintenance, repair, replacement, and rehabilitation of the project and any project-related betterments, except for damages due to the fault or negligence of the Government or the Government's contractors.

f. Keep and maintain books, records, documents, and other evidence pertaining to costs and expenses incurred pursuant to the project to the extent and in such detail as will properly reflect total project costs.

g. Perform, or cause to be performed, any investigations for hazardous substances that are determined necessary to identify the existence and extent of any hazardous substances regulated under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 USC 9601-9675, that may exist in, on, or under lands, easements or rights-of-way necessary for the construction, operation, and maintenance of the project; except that the non-Federal sponsor shall not perform such investigations on lands, easements, or rights-of-way that the Government determines to be subject to the navigation servitude without prior specific written direction by the Government.

h. Assume complete financial responsibility for all necessary cleanup and response costs of any CERCLA regulated materials located in, on, or under lands, easements, or rights-of-way that the Government determines necessary for the construction, operation, or maintenance of the project.

i. To the maximum extent possible, operate, maintain, repair, replace, and rehabilitate the project in a manner that will not cause liability to arise under CERCLA.

j. Participate in and comply with applicable flood plain management and flood plain insurance programs in accordance with section 402 of Public Law 99-662, as amended.

- k. Not less than once each year, inform affected interests of the limitations of the protection afforded by the project.
- l. Publicize flood plain information in the area concerned and provide this information to zoning and other regulatory agencies for their use in preventing unwise future development in the flood plain, and in adopting regulations as may be necessary to prevent unwise future development and to ensure compatibility with protection levels provided by the project.
- m. As between the Federal Government and the non-Federal sponsor, the non-Federal sponsor shall be considered the operator of the project for the purpose of CERCLA liability. To the maximum extent practicable, operate, maintain, repair, replace, and rehabilitate the project in a manner that will not cause liability to arise under CERCLA.
- n. Prescribe and enforce regulations to prevent obstruction of or encroachment on the project that would reduce the level of protection it affords or that would hinder operation or maintenance of the project.
- o. Comply with the applicable provisions of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, Public law 91-646, as amended by title IV of the Surface Transportation and Uniform Relocation Assistance Act of 1987 (Public Law 100-17), and the Uniform Regulations contained in 49 CFR part 24, in acquiring lands, easements, and rights-of-way, and performing relocations for construction, operation, and maintenance of the project, and inform all affected persons of applicable benefits, policies, and procedures in connection with said act.
- p. Comply with all applicable Federal and State laws and regulations, including Section 601 of the Civil Rights Act of 1964, Public Law 88-352, and Department of Defense Directive 5500.11 issued pursuant thereto, as well as Army Regulation 600-7, entitled "Nondiscrimination on the Basis of Handicap in Programs and Activities Assisted or Conducted by the Department of the Army."
- q. Provide 50 percent of that portion of total cultural resource preservation mitigation and data recovery costs attributable to the project that are in excess of one percent of the total amount authorized to be appropriated for the project.
- r. Do not use Federal funds to meet the non-Federal sponsor's share of total project costs unless the Federal granting agency verifies in writing that the expenditure of such funds is expressly authorized by statute.

The recommendations contained herein reflect the information available at this time and current Departmental policies governing formulation of individual projects. They do not reflect program and budgeting priorities inherent in the formulation of a national Civil Works construction program nor the perspective of higher review levels within the Executive Branch. Consequently, the recommendations may be modified before they are transmitted to the Congress as proposals for authorization and implementation funding. However, prior to transmittal to the Congress, the sponsor, the State, interested Federal agencies, and other parties will be advised of any modifications and will be afforded an opportunity to comment further.



Joe R. Miller  
Colonel, Corps of Engineers  
District Engineer